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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,097	11/08/2005	Samuel I. Stupp	NANO 106 US2 (NU 22088)	2444
62249	7590	03/17/2008	EXAMINER	
BENET GROUP LLC C/O INTELLEVATE P.O. BOX 52050 MINNEAPOLIS, MN 55402			LIU, SAMUEL W	
			ART UNIT	PAPER NUMBER
			1656	
			MAIL DATE	DELIVERY MODE
			03/17/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/534,097</p>	<p>Applicant(s) STUPP ET AL.</p>	
	<p>Examiner SAMUEL W. LIU</p>	<p>Art Unit 1656</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 7 months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 19 February 2008. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 4-6 and 14.
Claim(s) withdrawn from consideration: 12-13 (because of withdrawn of the new matt rejection of claims 4-6 & 12-14).

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☒ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). filed 11/15/07
13. ☐ Other: _____.

/Karen Cochrane Carlson, Ph.D./
Primary Examiner, Art Unit 1656

Continuation of 5. Applicant's reply has overcome the following rejection(s): under 35 USC 112, second paragraph of claims 4 and dependent claims therefrom but not claim 5 because the response filed 2/29/08 does not amend and/address claim 5; and thus, the rejection of claim 5 stands.

Continuation of 11. does NOT place the application in condition for allowance because: The response filed 2/19/08 does not address the rejection under 35 USC of claims 5 and 12 as to lack of antecedent basis of "said material"; and said rejection is deemed proper and maintained.

At pages 6-7, the response filed 2/19/08 argues against the 102(a) rejection by Wong et al. and submits that, as applicants have amended claim 4 which recites that the peptide amphiphile components a hydrocarbon component and a lyophilic peptide component, Wong et al. polypeptide does not meet the limitation "peptide amphiphiles" do not teach, nor the limitation "hydrocarbon component". The response also argues that the Wong et al. does not teach that their nanofibers are in the "cylindrical micelles" form as amended in claim 4 (see page 7, 1st paragraph). Thus, the response requests withdrawal of the rejection.

The applicants' arguments are found unpersuasive because of the reasons addressed in the Office action mailed 10/19/07 and reasons below. In Figure 1, Wong et al. teach that their peptide amphiphile comprise a hydrocarbon moiety "BrH3N-(H2C)5-" wherein "(H2C)5" is the "hydrocarbon component". At Figure 595, page 585 Wong et al. teach that the self-assembled nanoparticles ("n-Ag") can form various shapes including "the Ag nanorods" (page 586, right column, lines 3-5) wherein the "nanorods" are considered to be equivalent to instant "cylindrical micelles"; i.e., formation of physical form "cylindrical micelles" is an inherent property of the peptide amphiphiles thereof. Thus, Wong et al. teach the amended claim 4 and dependent claims 5-6 and 14. Therefore, the rejection is maintained. .